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SENATE BILL 6

49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009

INTRODUCED BY

Cisco McSorley

FOR THE COURTS, CORRECTIONS AND JUSTICE COMMITTEE

AN ACT

RELATING TO LOCAL JAILS; EXPANDING THE CRIME OF ESCAPE FROM A
COMMUNITY CUSTODY RELEASE PROGRAM TO INCLUDE ESCAPE FROM
PROGRAMS APPROVED BY A SHERIFF OR JAIL ADMINISTRATOR; REMOVING
THE REQUIREMENT OF JUDICIAL APPROVAL BEFORE A LOCAL JAIL MAY
AWARD CREDIT FOR GOOD BEHAVIOR; CLARIFYING THAT THE GOVERNING
BODY RESPONSIBLE FOR THE OPERATION OF A JAIL MUST APPROVE A
PRISONER-RELEASE PROGRAM.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 30-22-8.1 NMSA 1978 (being Laws 1999,
Chapter 118, Section 1) is amended to read:

"30-22-8.1. ESCAPE FROM A COMMUNITY CUSTODY RELEASE
PROGRAM.--

A. Escape from a community custody release program
consists of a person, excluding a person on probation or

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1 parole, who has been lawfully committed to a [~~judicially~~
2 ~~approved~~] community custody release program approved by a
3 judge, sheriff or jail administrator, including a day reporting
4 program, an electronic monitoring program, a day detention
5 program or a community tracking program, escaping or attempting
6 to escape from the community custody release program.

7 B. Whoever commits escape from a community custody
8 release program, when the person was committed to the program
9 for a misdemeanor charge, is guilty of a misdemeanor.

10 C. Whoever commits escape from a community custody
11 release program, when the person was committed to the program
12 for a felony charge, is guilty of a fourth degree felony."

13 Section 2. Section 33-3-9 NMSA 1978 (being Laws 1969,
14 Chapter 207, Section 1, as amended) is amended to read:

15 "33-3-9. COUNTY JAILS--DEDUCTION OF TIME FOR GOOD
16 BEHAVIOR.--

17 A. The sheriff or jail administrator of any county
18 [~~with the approval of the committing judge or presiding judge~~]
19 may grant any person imprisoned in the county jail a deduction
20 of time from the term of [~~his~~] the person's sentence for good
21 behavior and industry and shall establish rules for the accrual
22 of "good time". Deductions of time shall not exceed one-half
23 of the term of the prisoner's original sentence. If a prisoner
24 is under two or more cumulative sentences, the sentences shall
25 be treated as one sentence for the purpose of deducting time

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1 for good behavior.

2 B. A prisoner shall not accrue good time for the
3 mandatory portion of a sentence imposed pursuant to the
4 provisions of:

5 (1) [~~Sections~~] Section 66-8-102 [~~and~~] or
6 66-5-39 NMSA 1978; or

7 (2) a county or municipal ordinance that
8 prohibits driving while under the influence of intoxicating
9 liquor or drugs or driving with a revoked or suspended driver's
10 license.

11 C. A part or all of the prisoner's accrued
12 deductions may be forfeited for any conduct violation. The
13 sheriff or jail administrator shall establish rules and
14 procedures for the forfeiture of accrued deductions and keep a
15 record of all forfeitures of accrued deductions and the reasons
16 for the forfeitures. In addition, any independent contractor
17 shall also keep a duplicate record of such forfeitures.

18 D. No other time allowance or credits in addition
19 to deductions of time permitted under this section may be
20 granted to any prisoner.

21 E. If a private independent contractor operates a
22 jail, [~~he~~] the independent contractor shall make reports of
23 disciplinary violations and good behavior to the sheriff of the
24 county in which the jail is located. All action on such
25 reports and awards or forfeitures of good time shall be made by

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1 the sheriff. The independent contractor shall not have the
2 power to award or cause the forfeiture of good time pursuant to
3 this section."

4 Section 3. Section 33-3-24 NMSA 1978 (being Laws 1981,
5 Chapter 4, Section 1) is amended to read:

6 "33-3-24. PRISONER-RELEASE PROGRAM.--The sheriff of any
7 county or the jail administrator of any jail with the approval
8 of ~~[the board of county commissioners and]~~ the governing body
9 ~~[of the municipality, as applicable]~~ or bodies responsible for
10 the operation of the jail may establish a prisoner-release
11 program in accordance with the provisions of Sections 33-2-43
12 and 33-2-44 NMSA 1978. The labor and industrial commission
13 shall exercise the same supervision over conditions of
14 employment for prisoners working under a prisoner-release
15 program as it does over conditions of employment for free
16 persons. A prisoner working under a prisoner-release program
17 is not entitled to any benefits under the Unemployment
18 Compensation Law during the term of ~~[his]~~ the prisoner's
19 sentence. No prisoner involved in a prisoner-release program
20 is an agent, employee or involuntary servant of a county jail
21 while attending school, working in private business or going to
22 or from ~~[such]~~ the prisoner's assignment."

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